

§ 41.55

22 CFR Ch. I (4–1–15 Edition)

consular officer knows or has reason to believe that an alien applying for a visa as the beneficiary of an approved individual petition under INA section 101(a)(15)(L) is not entitled to such classification as approved.

(d) *Labor disputes.* Citizens of Canada or Mexico shall not be entitled to classification under this section if the Secretary of Homeland Security and the Secretary of Labor have certified that:

(1) There is in progress a strike or lockout in the course of a labor dispute in the occupational classification at the place or intended place of employment; and,

(2) The alien has failed to establish that the alien's entry will not affect adversely the settlement of the strike or lockout or the employment of any person who is involved in the strike or lockout.

(e) *Alien not entitled to L-1 classification under blanket petition.* The consular officer shall deny L classification based on a blanket petition if the documentation presented by the alien claiming to be a beneficiary thereof does not establish to the satisfaction of the consular officer that

(1) The alien has been continuously employed by the same employer, an affiliate or a subsidiary thereof, for one year within the three years immediately preceding the application for the L visa;

(2) The alien was rendering services in a capacity that is managerial, executive, or involves specialized knowledge throughout that year; or

(3) The alien is destined to render services in such a capacity, as identified in the petition and in an organization listed in the petition.

(f) *Former exchange visitor.* Former exchange visitors who are subject to the two-year foreign residence requirement of INA section 212(e) are ineligible to apply for visas under INA section 101(a)(15)(L) until they have fulfilled the residence requirement or obtained a waiver of the requirement.

[77 FR 8120, Feb. 14, 2012]

§ 41.55 Aliens with extraordinary ability.

(a) *Requirements for O classification.* An alien shall be classifiable under the provisions of INA 101(a)(15)(O) if:

(1) The consular officer is satisfied that the alien qualifies under the provisions of that section; and either

(2) With respect to the principal alien, the consular officer has received official evidence of the approval by DHS of a petition to accord such classification or of the extension by DHS of the period of authorized stay in such classification; or

(3) The consular officer is satisfied the alien is the spouse or child of an alien so classified and is accompanying or following to join the principal alien.

(b) *Approval of visa.* The approval of a petition by DHS does not establish that the alien is eligible to receive a nonimmigrant visa.

(c) *Validity of visa.* The period of validity of a visa issued on the basis of paragraph (a) to this section must not exceed the period indicated in the petition, notification, or confirmation required in paragraph (a)(2) of this section.

(d) *Alien not entitled to O classification.* The consular officer must suspend action on the alien's application and submit a report to the approving DHS office if the consular officer knows or has reason to believe that an alien applying for a visa under INA 101(a)(15)(O) is not entitled to the classification as approved.

[57 FR 31450, July 16, 1992; as amended at 61 FR 1833, Jan. 24, 1996]

§ 41.56 Athletes, artists and entertainers.

(a) *Requirements for P classification.* An alien shall be classifiable under the provisions of INA 101(a)(15)(P) if:

(1) The consular officer is satisfied that the alien qualifies under the provisions of that section; and either

(2) With respect to the principal alien, the consular officer has received official evidence of the approval by DHS of a petition to accord such classification or of the extension by DHS of the period of authorized stay in such classification; or

(3) The consular officer is satisfied the alien is the spouse or child of an alien so classified and is accompanying or following to join the principal alien.

(b) *Approval of visa.* The approval of a petition by DHS does not establish

Department of State

§41.57

that the alien is eligible to receive a nonimmigrant visa.

(c) *Validity of visa.* The period of validity of a visa issued on the basis of paragraph (a) to this section must not exceed the period indicated in the petition, confirmation, or extension of stay required in paragraph (a)(2) of this section.

(d) *Alien not entitled to P classification.* The consular officer must suspend action on the alien's application and submit a report to the approving DHS office if the consular officer knows or has reason to believe that an alien applying for a visa under INA 101(a)(15)(P) is not entitled to the classification as approved.

[57 FR 31450, July 16, 1992; as amended at 61 FR 1833, Jan. 24, 1996]

§41.57 International cultural exchange visitors and visitors under the Irish Peace Process Cultural and Training Program Act (IPPCTPA).

(a) *International cultural exchange visitors*—(1) *Requirements for classification under INA section 101(a)(15)(Q)(i).* A consular officer may classify an alien under the provisions of INA 101(a)(15)(Q)(i) if:

(i) The consular officer is satisfied that the alien qualifies under the provisions of that section, and

(ii) The consular officer has received official evidence of the approval by DHS of a petition or the extension by DHS of the period of authorized stay in such classification.

(2) *Approval of petition.* DHS approval of a petition does not establish that the alien is eligible to receive a nonimmigrant visa.

(3) *Validity of visa.* The period of validity of a visa issued on the basis of this paragraph (a) must not exceed the period indicated in the petition, notification, or confirmation required in paragraph (a)(2) of this section.

(4) *Alien not entitled to Q classification.* The consular officer must suspend action on the alien's application and submit a report to the approving DHS office if the consular officer knows or has reason to believe that an alien does not qualify under INA section 101(a)(15)(Q)(i).

(b) *Trainees under INA section 101(a)(15)(Q)(ii)*—(1) *Requirements for*

classification under INA section 101(a)(15)(Q)(ii). A consular officer may classify an alien under the provisions of INA section 101(a)(15)(Q)(ii) if:

(i) The consular officer is satisfied that the alien qualifies under the provisions of that section;

(ii) The consular officer has received a certification letter prepared by a program administration charged by the Department of State in consultation with the Department of Justice with the operation of the Irish Peace Process Cultural and Training Program (IPPCTP) which establishes at a minimum:

(A) The name of the alien's employer in the United States, and, if applicable, in Ireland or Northern Ireland;

(B) If the alien is participating in the IPPCTP as an unemployed alien, that the employment in the United States is in an occupation designated by the employment and training administration of the alien's place of residence as being most beneficial to the local economy;

(C) That the program administrator has accepted the alien into the program;

(D) That the alien has been physically resident in Northern Ireland or in the counties of Louth, Monaghan, Cavan, Leitrim, Sligo, and Donegal in the Republic of Ireland and the length of time immediately prior to the issuance of the letter that the alien has claimed such place as his or her residence;

(E) The alien's date and place of birth;

(F) If the alien is participating in the IPPCTP as an already employed participant, the length of time immediately prior to the issuance of the letter that the alien has been employed by an employer in the alien's place of physical residence;

(iii) If applicable, the consular officer is satisfied the alien is the spouse or child of an alien classified under INA section 101(a)(15)(Q)(ii), and is accompanying or following to join the principal alien.

(2) *Aliens not entitled to such classification.* The consular officer must suspend action on the alien's application and